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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,378

03/18/2004

Thomas B. Ferrara

FERR-3800

5498

7590

04/11/2006

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EXAMINER

VASUDEVA, AJAY

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/803,378	FERRARA, THOMAS B.	
	Examiner	Art Unit	
	Ajay Vasudeva	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-12,14-18 and 41-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 and 41-43 is/are allowed.
- 6) ☒ Claim(s) 2,3,5-9,11;12,14,15 and 45 is/are rejected.
- 7) ☒ Claim(s) 10,16, 17, 44-53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

New Rejection

1. This Office action contains a new rejection based on new grounds, and is therefore made non-final. Examiner regrets the resulting inconvenience to the applicant and his representative.

Claims Objections

2. Claim 5 is objected to because of the following informalities:
- The dependency of claim should be changed from claim 2 to properly depend from claim 3.
3. The numbering of claims 44-53 is not correct because at least two claims have duplicate claim number 44. Misnumbered claims 44-53 should be renumbered as 44-54.
4. Claim 53(54) does not further limit the preceding claim 18, and therefore must be deleted.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 8 and 45(46) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 8 and 45(46), applicant has set forth the limitation "wherein the permanent buoyancy structure is an inflatable structure" (emphasis added). It is not clear from the specification whether the "permanent" character of the buoyancy structure is due to it being a

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non-deflatable pneumatic structure, or if such structure is actually made of a material such as foam that does not depend on inflation for its buoyancy.

Applicant is requested to provide clarification and/or correction.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 2, 3, 5-7, 9, 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaufman et al. (US 5,324,221 A).

Kaufman et al. shows a floatation apparatus comprising a platform structure [14], a permanent buoyancy structure [12], and at least one removable buoyancy structure [16] removably attached to the floatation apparatus. All structures are made of closed cell foam plastic such as Styrofoam, and are therefore considered to be permanent buoyancy structures. The platform comprises at least one bowl structure [38]. A ramp structure [44] is removably attached to the apparatus (fig. 7).

Re claim 2, the apparatus is provided with an attachment structure [80]. Applicant may note that the phrase “**adapted to secure ... to an object**” is merely a capability limitation that does not positively recite any attachment to, or a combination with, the object. The limitation merely recites that the attachment structure is capable of attachment to the object. In the present case, the attachment structure is capable of securing the floatation apparatus to an

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object, and therefore, is considered to be “adapted to secure the floatation apparatus to an object”.

Re claims 3 and 5-7, as described above, “the object” of claim 2 has not been given any patentable weight because such object has not been positively recited in a combination with, or as being a part of, the flotation apparatus. As such, claims 3 and 7 that further limit the object as being a pool (claim 3), or a dock/boat (claim 7) are likewise not given any patentable weight. Similarly, regarding claims 5 and 6, the flotation apparatus is considered to be capable of attachment to many other kinds of structures, such as a shading structure comprising an umbrella.

All structures described above are designed to support a human, and therefore, are equally capable of supporting a pet on water.

Allowable Subject Matter

9. Claims 18 and 41-43 are allowed.

10. Claims 10, 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 44 and 46-52 would be allowable the objection(s) set forth in this Office action is overcome.

12. Claim 8 and 45(46) would be allowable if the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action is overcome.

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Response to Arguments

13. Applicant's arguments with respect to claims 2, 3, 5-7, 9, 11, 12 and 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


14. The prior art made of record in the attached PTO Form 892, but not yet relied upon, is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva
Examiner
Art Unit 3617


AJAY VASUDEVA
PATENT EXAMINER
3/25/06